

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. SACV 15-02105-CJC(JCGx)

Date: July 13, 2016

Title: HAND & NAIL HARMONY, INC. ET AL. V. TEXAS NAILS & BEAUTY SUPPLY ET AL.

PRESENT:

HONORABLE CORMAC J. CARNEY, UNITED STATES DISTRICT JUDGE

Melissa Kunig
Deputy Clerk

N/A
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF: ATTORNEYS PRESENT FOR DEFENDANT:

None Present

None Present

**PROCEEDINGS: (IN CHAMBERS) ORDER DENYING WITHOUT PREJUDICE
PLAINTIFFS' MOTION FOR DEFAULT JUDGMENT**

Having read and considered the papers presented by the parties, the Court finds this matter appropriate for disposition without a hearing. *See* Fed. R. Civ. P. 78; Local Rule 7-15. Accordingly, the hearing set for July 18, 2016 at 1:30 p.m. is hereby vacated and off calendar.

Plaintiffs Hand & Nail Harmony, Inc., Nail Alliance–Artistic, Inc., and Nail Alliance, LLC bring this action against Defendants Texas Nails & Beauty Supply, Tony Lee, Door to Door Nail Supply, Inc., Nail Supply, Inc., and Salon Supply Store for unfair competition, trademark infringement, copyright infringement, and breach of contract. (*See* Dkt. 1.) Defendants Salon Supply Store and Door to Door Nail Supply, Inc. have answered the complaint. (Dkt. 28; Dkt. 35.) Defendants Texas Nails & Beauty Supply and Tony Lee have failed to appear, and the Clerk entered default against them on March 11, 2016. (Dkt. 21.) On April 11, the Court issued an order to show cause why the case should not be dismissed for failure to prosecute against Texas Nails & Beauty Supply and Tony Lee. (Dkt. 25.) Plaintiffs subsequently moved for a default judgment against those two defendants. (Dkt. 30.) Their initial motion was denied without prejudice because it did not contain a proposed order. (Dkt. 37.) Plaintiffs filed a renewed motion on June 13, 2016.

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Their renewed motion is again **DENIED WITHOUT PREJUDICE**. Having considered Plaintiffs’ arguments and Defendants’ potential liability, the Court finds that the prudent course is to proceed with the litigation between Plaintiffs and the answering parties before entering default judgment against the parties currently in default. Although Texas Nails & Beauty Supply and Tony Lee’s failure to appear is an admission of liability, the Court is concerned that entering judgment against those parties at this juncture, and then proceeding with the litigation between Plaintiffs and the answering Defendants could potentially lead to inconsistent judgments or inconsistent damages awards. *See LOL Finance Co. v. Mebane*, No. 1:10-cv-00078 LJO JLT, 2011 WL 121566, at *6 (E.D. Cal. Jan. 13, 2011) (denying motion for default judgment because “if [i]ndividual [d]efendants prevail at trial, . . . there is a possibility of inconsistent judgments”); *Shanghai Automation Instrument Co. v. Kuei*, 194 F. Supp. 2d 995, 1005 (N.D. Cal. Nov. 19, 2001) (“[T]he court should not enter a default judgment against one or more defendants which is, or likely to be, inconsistent with judgment on the merits in favor of the remaining answering defendants.”). Additionally, damages issues in this case are thorny and will be more amenable to resolution upon a fuller record. Following the conclusion of Plaintiffs’ litigation against the Defendants who have appeared, Plaintiffs may again renew their motion for a default judgment against Texas Nails & Beauty Supply and Tony Lee.

sr

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Initials of Deputy Clerk MKU